

## I. **INTRODUCTION**

Domestic violence is one of the most prevalent legal and social problems in the United States. Every year between three and four million women throughout the United States are beaten by their partners (husbands or boyfriends) or ex-partners. When adult women are beaten, frequently children are as well. In approximately 75% of the cases where a couple has children and the female adult is abused, children witness the assaults and are themselves often physically abused.

Domestic violence in its worst, and ultimate, form is homicide. Every year nearly 2,000 people die from domestic violence homicides in the United States, most frequently men causing the death of their female partners. Children are also homicide victims. In over half of all murders of children under 12, parents were the perpetrators. Half of all female homicide victims were killed by their male partners.

Many programs have been developed by victim advocates, law enforcement, courts and other agencies to address this problem. One of the newest programs being developed around the United States, and in other countries including England, France and Australia, is called the "fatality review" process, or Fatality Review Committees.

A fatality review committee is a group of professionals from many different organizations, agencies and branches of government that convenes periodically to review domestic violence homicide (fatality) cases. The theory underlying the fatality review process is that if we are able to understand better why and how a homicide occurred, we can learn important lessons to help prevent future deaths. The core belief underlying the Committee's work is that every death is preventable, and we must work together to make this belief a reality.

## II. **HISTORICAL BACKGROUND**

On July 19, 1999, Governor Jeanne Shaheen created the New Hampshire Domestic Violence Fatality Review Committee. In issuing her Executive Order, she endorsed and encouraged a tradition begun in New Hampshire many years ago of multi-disciplinary collaboration. The Domestic Violence Fatality Review

Committee was created as part of the Governor's Commission on Domestic and Sexual Violence to provide systemic review of domestic violence homicides in order to reduce the number of future fatalities.

Approximately two years earlier, a group of representatives from law enforcement, victim services, batterers intervention and the courts was concerned that despite all the good work occurring in New Hampshire, domestic violence fatalities still represented a large portion of our total homicide count. Since 1990, while the total number of homicides has declined, domestic violence-related homicides remain at approximately 47%. The Committee learned of a new program begun in a few jurisdictions around the country, called a Fatality Review Committee, or Death Review Team, which was being promoted as another tool to help prevent domestic violence homicides.

This group approached the Governor's Commission on Domestic and Sexual Violence and sought its endorsement to create a Fatality Review Committee and, having obtained it wholeheartedly, this Committee began its work. Coincidentally, the State Justice Institute, together with the United States Department of Justice and the National Council of Juvenile and Family Court Judges, was planning a First National Conference on Fatality Review, and New Hampshire's group was invited to attend. Upon return, the Committee applied for, and soon thereafter received, a Technical Assistance Grant from the State Justice Institute to augment this work. The grant was awarded in June 1999, and continues in effect at this time. Altogether, the committee to create a Fatality Review Committee spent two years developing its structure, mission statement, objectives, protocol and selection of committee members.

All of this information was presented to Governor Jeanne Shaheen, including a proposed list of committee members. As noted above, the Governor formally established the committee in July 1999.

### III. **FATALITY REVIEW IN NEW HAMPSHIRE**

#### **Mission Statement**

\_\_\_\_\_ The purpose of the Fatality Review Committee is set out in its Mission Statement which reads:

To reduce domestic violence-related fatalities through systemic multi-disciplinary review of domestic violence fatalities in New Hampshire; through inter-disciplinary training and community-based prevention education; and through data-driven recommendations for legislation and public policy.

## **Objectives**

\_\_\_\_\_ The Committee has six goals and objectives, as follows:

- (1) To describe trends and patterns of domestic violence-related fatalities in New Hampshire.
- (2) To identify high risk factors, current practices, gaps in systemic responses, and barriers to safety in domestic violence situations.
- (3) To educate the public, policy makers and funders about fatalities due to domestic violence and about strategies for intervention.
- (4) To recommend policies, practices and services that will encourage collaboration and reduce fatalities due to domestic violence.
- (5) To improve the sources of domestic violence data collection by developing systems to share information between agencies and offices that work with domestic violence victims.
- (6) To more effectively facilitate the prevention of domestic violence fatalities through multi-disciplinary collaboration.

## **Executive Order**

\_\_\_\_\_ Both the Mission Statement and Objectives have been incorporated into the Governor's Executive Order authorizing the work of this group. (See Appendix A.)

## **Membership**

\_\_\_\_\_The Committee has a very broad-based membership, reflective of the many organizations and agencies which work with domestic violence victims, perpetrators and children. A review of the membership list, included with this report, reflects representation from the following: all courts that have domestic violence jurisdiction (District, Family, Superior and Supreme), local and state law enforcement, victim services (through the Attorney General's Office and Coalition Against Domestic and Sexual Violence), education (state and local), health care (medical and mental health), batterers intervention, visitation network, Division for Children, Youth and Families (DCYF), clergy, Employee Assistance Program and others. Attorneys are also represented, including the New Hampshire Bar Association's Domestic Violence Emergency Project (DOVE) program, prosecutors and defense attorneys. New Hampshire is one of very few jurisdictions in the country that welcomes the defense bar to this discussion. It has been the Committee's belief and experience that domestic

violence issues need broad-based perspective, and the goal of homicide prevention is *everyone's* concern.

The Committee which proposed the Fatality Review Committee to Governor Shaheen was also careful to identify individuals within each profession listed above who were personally willing to serve, and committed to the goals of the Committee. The Committee wanted to ensure that individual members would make a time commitment required to provide consistency and continuity to the review process. Much of the first meeting was devoted to each member discussing why he or she had agreed to serve and what each thought he or she could contribute to the process, individually as well as institutionally.

## **Confidentiality Agreement**

\_\_\_\_\_Because certain information which is shared at committee meetings is confidential, all members have been asked to sign a Confidentiality Agreement. (See Appendix B.) This ensures that all information shared during the review process will remain confidential and will not be disseminated outside of the Committee. In addition to individual confidentiality agreements, an Inter-agency Agreement has been prepared and signed by the heads of the New Hampshire Department of Justice, the New Hampshire Department of Health and Human Services, and the New Hampshire Department of Safety. (See Appendix C.)

## **Structure**

\_\_\_\_\_The full Committee meets bi-monthly, on average, to review one or more homicides. In alternating months, the Executive Committee meets to select cases for review, refine recommendations developed by the full Committee, and attend to other administrative matters. The Executive Committee consists of representatives from the courts, law enforcement, victim services, batterer's intervention, the State's Chief Medical Examiner and an Administrative Assistant.

### **Review Process**

\_\_\_\_\_The Committee has determined that only closed cases, or murder/suicides, will be reviewed. This ensures that all appeals have expired and thus not affect the ongoing investigation of an active case.

Each case review begins with a report by the Chief Medical Examiner and the law enforcement agency which responded to the scene. These reports provide great detail about the homicide as well as the history of the victim and defendant. Information is also received from the prosecutor and victim advocate involved with the case. Committee members then report on information from their agencies or organizations. For example, court representatives would report on the existence of any civil protection orders, bail conditions, domestic violence convictions, and other civil and criminal case histories of the parties and their children. The medical representatives would report on any known contact seeking health care for injuries sustained as a result of a domestic violence assault. Following the presentation by all Committee members, the group collectively formulates recommendations for preventing future homicides. Ideas may be related to the particular case, or may germinate from cross-disciplinary discussion and give rise to ideas which will proactively help prevent domestic violence homicide and other assaults.

IV.

### **STATE JUSTICE INSTITUTE GRANT**

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\_\_\_\_\_As noted above, New Hampshire was awarded a Technical Assistance Grant from the State Justice Institute in 1999. The grant has enabled the Committee to consult with and evaluate other teams around the country, and has provided a law student for research assistance. The grant has also enabled the

Committee to engage Attorney Barbara Hart, widely recognized as one of the nation's leading experts on domestic violence, to serve as a consultant to our Committee. A final report to the State Justice Institute will be completed at the conclusion of the grant and will be available for public distribution upon request.

## V. **DATA**

From 1990 through 2000, a total of 227 homicides occurred in New Hampshire and 47% were domestic violence-related. While the total number of homicides has decreased slightly, the percentage of domestic violence-related homicides, as compared to the total number of homicides, has increased. For example, in 1990, there were 16 homicides, eight of which were domestic violence-related (50%). In 2000, there were 14 homicides, of which 11 (79%) were domestic violence related. On the other hand, the number of "partner" homicides remains low (four in 2000). The Committee hopes to better understand and address this phenomenon through its work.

### STATE OF NEW HAMPSHIRE HOMICIDE STATISTICS 1990 - 12/31/2000

Year	Total # Homicides	Partners	Family Members	DV Related	Total DV	Total % DV
1990	16	5	3	0	8	50%
1991	34	9	5	2	16	47%
1992	20	7	1	3	11	55%
1993	24	7	1	0	8	33%
1994	18	4	2	2	8	44%
1995	19	5	4	1	10	53%
1996	23	6	5	1	12	52%
1997	24	4	0	0	4	17%
1998	15	6	0	1	7	46%
1999	20	6	5	1	12	60%
2000	14	4	7	0	11	79%
<b>Totals</b>	<b>227</b>	<b>63</b>	<b>33</b>	<b>11</b>	<b>107</b>	<b>47%</b>

**Partners** – Homicide where the perpetrator and victim ARE intimate partners (e.g., husband kills wife).

**Family Members** – Homicide where the perpetrator and victim ARE NOT intimate partners but ARE family members (e.g. parent kills child).

**Domestic Violence Related** – Homicide where the perpetrator and victim ARE NOT intimate partners and ARE NOT family members but it is related to domestic violence (e.g., estranged husband kills wife's current intimate partner, or neighbor dies trying to save child from parental abuse).

## VI. SUMMARY OF CASE REVIEWS

Between November 1999 and March 2001, the Fatality Review Committee completed in-depth, analytical studies of nine domestic violence

related homicides. While there are many similarities between the cases which were reviewed, there are also some remarkable differences. Due to the small number of reviews, and in fact the small number of domestic violence homicides, what follows is simply a brief description of some of the demographic and other characteristics of the cases reviewed, rather than a statistically significant analysis of data. A review of the following information will help to give the reader a better understanding of the nature of domestic violence homicides in New Hampshire.

As we selected cases for review, we attempted to review the most current cases possible, and then work retroactively to older cases. As noted above, the Committee reviews only closed cases, where all appeals have expired, or cases for which there was no prosecution such as murder/suicide. Accordingly, unless there is a plea agreement, for which there is no appeal available, most of the cases were at least one year old. Cases were reviewed where deaths occurred in 1997, 1998 and 1999.

### **Age of Victim and Perpetrator**

\_\_\_\_\_ Although statistically the greatest number of homicides occur when people are in their 20's and 30's, the cases we reviewed illustrate that domestic violence related homicides occur within all age groups. The age range for the victims was as young as six months (where a father killed his child after unsuccessfully attempting to kill his partner), to age 73 (where an elderly woman was killed by her elderly partner). Excluding the youngest and oldest, the remaining female victims ranged between ages 30 and 42. (We were unable to determine the age of the male victim.)

With the exception of the one elderly perpetrator, who was 76 at the time he killed his elderly partner, the age range for male perpetrators was 26 to 53, with most of the offenders being in their 30's and early 40's. (We were unable to determine the age of the female offender.)

### **Gender of Victim and Perpetrator**

\_\_\_\_\_ Of the nine cases reviewed, there were eight female victims, and one male victim. Conversely, there were eight male perpetrators, and one female perpetrator. All of the victim/perpetrator relationships were heterosexual (in other words, there were no same sex homicides or homicide/suicides).



Three of the cases reviewed involved murder/suicide. Each was with a female victim and a male perpetrator.

### **Relationship Between Victim and Perpetrator**

\_\_\_\_\_ Of the nine cases reviewed, the relationship between the perpetrator to the victim was that of husband in three cases, wife in one case, former partner in four instances, and former partner of victim's mother in one. (The ex-boyfriend killed the partner's child.) Another way of looking at this piece of information is that approximately one-third of the victims were married, one-third were unmarried but involved in intimate relationships, and one-third had recently separated. Most of these cases had some outward evidence of a turbulent relationship.

### **County Location of Homicide**

\_\_\_\_\_ Again, although not statistically significant, we reviewed cases where homicides occurred in seven of New Hampshire's ten counties, with one homicide each in Carroll, Cheshire, Coos, Grafton, Rockingham and Strafford Counties, and three occurring in Hillsborough County.

### **Cause of Death**

\_\_\_\_\_ The most troubling information concerned the manner in which the homicides occurred. In a number of cases, there were multiple methods used by which the perpetrator ultimately caused the victim's death (although there may have been one specific cause of death in accordance with the Medical Examiner's determination). In two of the cases reviewed, the victims were literally beaten to death. One was beaten with a baseball bat, and another was beaten to death with the butt of a gun. This victim likely died of asphyxiation due to the broken ribs she suffered.

Three of the homicides involved death by a firearm (shooting the victim). In two of the cases, the victims were strangled or otherwise suffocated to death.

Finally, three of the victims were stabbed or slashed repeatedly. In one case, the Medical Examiner was able to determine that the victim was stabbed 77 times during the course of the assault. Victims were stabbed in the heart, throat, neck, and face. The homicides were brutal and there is no question that most of these victims suffered tremendously before their death.

Regrettably, although children were not present *during* any of the homicides, there were two cases where the perpetrator appeared to have designed the homicide to ensure that the children would discover their mother's body following the attack.

## VII. **RECOMMENDATIONS**

\_\_\_\_\_ As a result of the Committee's review of cases to date, a comprehensive list of approximately 70 recommendations has been developed, which follow. It is our hope and expectation that each relevant organization and agency referenced within the recommendations will address these and report back at a later time.

### **SYSTEM-WIDE RECOMMENDATIONS**

- (1) Any time a victim makes a declaration of perceived safety in a forum where the abuser is also present, an effort to consult with the victim alone should be made in a manner that does not jeopardize the victim's safety.
- (2) Domestic violence should be a topic included among continuing professional education requirements for all relevant disciplines, including, but not limited to, the following: All courts that handle domestic violence, the Department of Education, the Department of Employment Security, DCYF, Employee Assistance Programs, the faith community, law enforcement, all mental health care providers, and alcohol and substance abuse treatment providers. Special emphasis should be placed on providing training for community mental health centers and alcohol and substance abuse providers throughout the State.
- (3) Community-wide Risk Assessment: All professionals working on cases involving domestic violence should conduct an ongoing risk assessment. The results of that risk assessment will be shared with other providers to the extent allowable by their profession's ethical guidelines. A sample risk assessment checklist follows:
  - a. Escalation of physical violence
  - b. Escalation of other forms of abuse
    - c. Sexual abuse of the victim
    - d. Recent acquisition or change in use of weapons
    - e. Suicidal ideation, threats or attempts

- f. Homicidal ideation, threats or attempts
- g. Change in alcohol or other drug use/abuse
- h. Stalking or other surveillance/monitoring behavior
- i. Centrality of the victim to the perpetrator ("he/she's all I have")
- j. Jealousy/obsessiveness about, or preoccupation with, the victim
- k. Mental health concerns connected with violent behavior
- l. Other criminal behavior or injunctions (e.g., resisting arrest)
- m. Increase in personal risk taking (e.g., violation of restraining orders)
- n. Interference with the victim's help-seeking attempts (e.g., pulling a phone jack out of the wall)
- o. Imprisonment of the victim in the home
- p. Symbolic violence including destruction of the victim's property or harming pets.
- q. The victim's attempt to flee the batterer or to terminate the relationship
- r. Batterer's access to the victim or the victim's family
- s. Pending separation, divorce or custody proceedings
- t. Recent termination from employment
- u. Other suspected risk factor(s)

**Note:** The absence of any history of domestic violence, and the absence of any physical violence towards victim, do not necessarily mean there is no risk of lethal attack.

### **BATTERER INTERVENTION PROGRAM PROVIDERS**

- (1) Batterer Intervention Program providers should cooperate with investigators of domestic violence fatalities.

**Comment:** The Major Crime Unit of the Department of Safety (State Police) (and local police departments in a few of the larger

cities) investigate all domestic violence homicides. Program providers should cooperate with investigators by making available their records to the maximum extent allowable by law and ethical guidelines.

Such cooperation will assist community and statewide efforts to understand better both abuser dynamics and the factors that increase or decrease risk of harm. Ultimately, this improved understanding may help to generate strategies for reducing or eliminating intimate partner violence.

(2) Batterer's intervention program providers should offer specialized batterer's intervention and domestic violence programs for juvenile offenders.

**Comment:** Services for juveniles should be segregated from the adult population.

## **COURTS**

- (1) Victim advocates should be available in all courts to help victims in civil and criminal matters pertaining to domestic violence.
- (2) Prior to the expiration of a final domestic violence protection order, a notice should be sent by the Court to both parties informing them of the pending expiration, and advising the Plaintiff of the renewal procedure and the Defendant of the provision for a hearing on a request for renewal.

**Comment:** If advocates were based in courts, they could assume these responsibilities.

- (3) Courts should make referrals to the local crisis centers whenever a petitioner presents herself to the court (whether or not a civil protection order is granted). Courts and crisis centers should develop a procedure to meet the needs of the petitioner, the crisis center and the court. Petitioners should be made aware of the services and resources available to them.
- (4) Courts with jurisdiction over domestic violence and juvenile cases need to identify those juvenile cases which should remain in open status and

encourage feedback and recommendations regarding those cases from specialized professionals. Courts should then assign judges to these cases who have been trained and are part of a specialized team of judges.

**Comment:** Typically a case involving child abuse or neglect will remain open for approximately one year until a hearing is conducted on the child's permanent placement, and then close soon thereafter. The intent of this recommendation is to deviate from this general procedure and intentionally keep the case open to ensure that a child receives on-going monitoring and assistance, since often the impact of a domestic violence-related fatality will continue for years.

- (5) Courts need to develop a policy and procedure for contacting school districts in domestic violence cases, for two reasons:

(a) to let the school counselor know of the child's status relative to the domestic violence case; and

- (b) parental access to a child may be limited by a domestic violence protective order, or possibly also conditions of bail.

**Comment:** It will be important that this information be restricted to selected individuals in a school, to prevent such information from becoming more widely known than necessary. The procedure will require careful consideration due to confidentiality concerns.

- (6) Courts routinely should advise petitioners of the high risk of violence when the defendant is served with the temporary restraining order and that the petitioners must act with an increased sense of awareness regarding their own safety. Furthermore, courts should advise and refer petitioners to local crisis centers (if an advocate is not already present) for safety planning.

**Comment:** Victims may assume that obtaining a restraining order will automatically provide greater safety,

when, in reality, a victim may be faced with greater danger at the time of obtaining an order.

- (7) The Judicial Branch needs to ensure that all court personnel (judges and court staff) treat petitioners and defendants with respect and dignity.

**Comment:** Some courts (judges and staff) are not consistent in their treatment of parties who come before the courts. Some do not provide a positive and supportive environment for individuals who are in crisis.

- (8) All judicial branch protocols should address and emphasize the importance of the crisis center advocate.

**Comment:** The current District Court protocol on domestic violence advocates is included in Appendix I, p. 61 of Suggested Procedures for Processing Domestic Violence Petitions in the District Court, May 12, 1994. Perhaps reminding district courts to review this section would be sufficient. The existing protocol is quite thorough.

Enhancing and adding appropriate language to it may be all that is required to implement this recommendation. Judges and staff should be encouraged to review their protocols annually, perhaps in collaboration with their local coordinating councils.

- (9) The Court protocols should be amended to include the clerks' new responsibilities for advising victims of relief they may request at the time of applying for a protective order (see RSA 173-B:11, II). To the extent it may not already, the protocol should clearly require clerks to routinely assist petitioners in completing petitions, providing them with information and making appropriate referrals.

**Comment:** The Court protocols should be updated to include the new responsibilities required under HB 722. For example, clerks should advise petitioners of their right to seek child support, use of a vehicle or other financial assistance, where appropriate.

Additionally, if victim advocates were present in court as recommended above, they could assist with these responsibilities, as well as safety planning.

- (10) Judges should be aware of the numerous risk factors that may provide guidance in determining whether to grant a protection order, if requested.

**Comment:** Homicides, obviously the most serious of all domestic violence behavior, are sometimes committed by persons who have no prior criminal or domestic violence history. When victims seek protection orders, judges should be aware that danger may exist even in the absence of any criminal history. Risk factors such as those identified in the System-Wide Recommendations, #3, should be taken into consideration if a victim requests an order of protection.

- (11) Courts should develop a protocol to handle a petitioner's request for withdrawal of a protective order. The protocol should include:

- (a) an inquiry whether the petitioner is withdrawing the request freely and voluntarily, or whether anyone has coerced the petitioner to withdraw the request; and

- (b) an inquiry whether a safety plan is in place and if not, include a referral to a local crisis center.

- (12) An informational brochure should be developed to distribute to victims at the time they file requests to withdraw protective orders. This brochure would address various safety issues to consider before filing the request.

- (13) In determining the rehabilitative component of sentencing, courts should order abusers to batterers intervention services (rather than anger management, psychotherapy or couples counseling).

**Comment:** Domestic violence is the purposeful use of physical or other forms of abuse to control an intimate partner. It is, therefore, not caused by mental health, anger management, substance abuse or relationship problems. Anger management programs, by misattributing the cause of violence to difficulties with emotional regulation, allow

abusers to avoid taking full responsibility for their actions. Standards of practice for batterers intervention services will be published in 2001. Lists of approved providers will be distributed to the courts and other referral agents such as probation/parole, victim services, etc.

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### **CRISIS CENTERS**

- (1) Advocates and petitioners should identify those courts that are not receptive to the established domestic violence protocols. Advocates and petitioners should be encouraged to bring concerns to the attention of the appropriate judicial branch administrator.

**Comment:** The protocols should be amended to reflect this procedure.

### **DEFENSE BAR**

- (1) Attorneys who represent civil and/or criminal defendants in domestic violence-related cases should consider developing a checklist to assist their clients in complying with all court orders.

**Comment:** Defense attorneys, while they may not have a legal duty to warn a victim of any conceivable threat, could provide a useful service to defendants and victims alike by helping their clients to understand what they must do to comply with all court orders. Such a checklist would enhance safety for victims and help defendants avoid prosecution for violations of court orders. Use of such a checklist may have a related benefit of helping defense attorneys achieve greater professional satisfaction which otherwise might not be gained when/if a client violates an order and causes significant harm to a victim.

### **DEPARTMENT OF CORRECTIONS**



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(1) A study should be conducted by the Department of Corrections, the courts, and other interested parties to identify the extent of the need for probation services and to develop a plan for addressing that need through legislative action.

(2) All inmates routinely should be screened for a history of violent behavior. Those determined to have a violent history should be offered (whenever feasible) educational services to teach nonviolence.

(3) In the area of rehabilitative services for violent offenders, the Department of Corrections should offer educational services (e.g., batterers intervention services) that recognize violence as a choice (rather than attribute violence to a problem with anger, substance abuse, mental illness or communication problems).

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## **DEPARTMENT OF EDUCATION**

- (1) The Department of Education should ensure that all school nurses, school psychologists and guidance counselors receive accurate and current information on domestic violence. The Department, at a minimum, should ensure that all school personnel are familiar with the Education Protocol of the Governor's Commission on Domestic and Sexual Violence.
- (2) The Department of Education should facilitate the implementation of the Public Education Committee's Teen Dating Violence Program in as many schools as possible.

**Comment:** This is an effective and much needed vehicle for educating high school aged students about domestic violence and healthy relationships, and providing them with information about local resources.

## **DEPARTMENT OF EMPLOYMENT SECURITY**

- (1) The Department of Employment Security should provide information for all employees about domestic violence resources within local communities.
- (2) The Department of Employment Security should have informational brochures on domestic violence available at each of its offices.

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

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- (1) The Department should provide specialized batterer's intervention and domestic violence programs for juvenile offenders so that they may receive appropriate services, whether detained in State facilities or on conditional release in the community.

**Comment:** Services for juveniles should be segregated from the adult population.

## **DISTRICT COURTS**

- (1) **Bail Orders by Bail Commissioners:** All Bail Commissioners shall use the long form bail orders that include check-off boxes for each available order, including weapon relinquishment, no contact, etc., which became available in February 2000. Furthermore, Clerks of Court shall monitor the correct use of these forms by the Bail Commissioners and properly address any failure to use the forms properly.

**Comment:** All District Court Judges, Clerks and Bail Commissioners have been reminded by way of memorandum from the District Court administrative office dated February 22, 2000 of the Preventive Detention and Weapon Relinquishment Provisions of RSA 173-B and RSA 597, as amended and made effective on January 1, 2000.

- (2) **Bail Commissioner Training:** A Bail Commissioner training manual addressing domestic violence issues should be developed by the District Court and provided

to all courts for use in training Commissioners. Additionally, hereafter all annual trainings should be required to include a domestic violence component.

- (3) **Bail Orders at Arraignment:** Uniform bail forms should be developed and approved by the District Court for use by all courts and Bail Commissioners. The forms should contain pre-printed orders from which the Judge or Commissioner can make elections. Included among those orders should be weapons relinquishment and no contact orders. Judges should be advised that unless the Commissioner's order is adopted in full and is a part of the Court's file, a new order should be done at the time of arraignment. Care should be taken to name all victims and potential victims with whom the Court wishes to limit contact by the defendant.

- (4) Judges should require a presentation of the defendant's criminal record history at the time of arraignment. Bail Commissioners should also obtain this information before setting bail.

**Comment:** It is the practice of most judges to inquire into a defendant's criminal record history prior to setting bail. This inquiry is relevant, since RSA 597:2 requires a finding that the defendant poses a threat to the safety of any person or the community before being released. It is

less common for judges to review outstanding and expired domestic violence protective orders at this time. The latter information is equally important, however, in assuring the protection of victims of domestic violence and the public.

- (5) The defendant's record of civil restraining orders should also be examined at the time of arraignment.

**Comment:** The defendant's record of civil restraining orders is more problematic. Certainly, each court can conduct a search of its own record, and courts have been instructed to do so in domestic violence-related and other appropriate cases. However, New Hampshire only has a central registry of outstanding restraining orders. If an order has expired, there is no record. The court system will work with the Department of Safety to fashion a resolution of this problem. For the time being, judges should review all available criminal and domestic violence records prior to setting bail. This will ensure synchronicity of orders, avoid those cases where weapons are ordered relinquished in one order but not the other, and provide the court with an individual's non-criminal domestic violence history.

- (6) All bail orders should be transmitted to the alleged victim of a domestic violence incident. It is further recommended that victim witness advocates be funded for involvement in District Court cases. These persons would be responsible to notify victims of such orders. Until such time as this occurs, courts should discuss notification with the prosecuting department and, if necessary, mail a copy of the bail order to the person named as a victim in each criminal complaint alleging a domestic violence-related matter.

- (7) In any case where there has been a Class A misdemeanor conviction followed by an appeal for de novo review, the issue of bail pending appeal should be specifically addressed. In the case of domestic violence matters, the provisions of RSA 597:2, III-a regarding preventive detention should also be addressed by the court.

**Comment:** By memo dated February 22, 2000, District Court judges were so reminded by the Administrative

Judge of the District Court. When a defendant has been convicted of a Class A Misdemeanor in District Court, the defendant has the right to appeal that finding to the Superior Court for a de novo jury trial. RSA 597:1-a, IV makes it clear that once there has been a conviction, the issue of bail is, once again, ripe for consideration by the court.

(8) A procedure should be developed by the courts in conjunction with the U.S. Attorney's Office and the New Hampshire Attorney General's Office to enable District and Superior Court judges to make appropriate findings at the conclusion of qualifying misdemeanor and felony trials as to the applicability of the federal ban.

NOTE: Such a procedure is under development and testing in the District Court.

**Comment:** Pursuant to 18 U.S.C. 922(g)(9), a person is subject to a lifetime ban on weapons possession if they are convicted of a qualifying misdemeanor crime of domestic violence which is defined as an offense:

A. which contains an element of physical force, attempted physical force, or threatened use of a deadly weapon;

B. which is against an intimate partner; and

C. for which they are entitled to counsel and jury trial.

(9) A mechanism for notification to a criminal record keeper (state and national) of the applicability of the ban to a particular individual needs to be developed by the Department of Safety in conjunction with federal authorities and state courts.

(10) A procedure to notify local law enforcement that a particular defendant is subject to the federal weapons ban must be developed.

(11) The New Hampshire Attorney General's Office, the courts, the Statewide Coalition Against Domestic and Sexual Violence, and others need to continue their collaborative efforts to develop a plan for the funding of victim witness advocates for local prosecutors.

**Comment:** Victim Witness Advocates have become an integral part of the prosecution function at the Superior Court level. Trained, professional advocates have demonstrated their importance to the system time and again. Currently, the Attorney General's Office, New Hampshire State Police, and County Attorney Offices have such professional victim witness advocates available to them. There are, however, very few victim witness advocates available to local prosecutors in the 39 District Courts of the State.

(12) A study should be conducted by the Department of Corrections, the courts, and other interested parties to identify the extent of the need for probation services and to develop a plan for addressing that need through legislative action.

(13) The Legislature should be asked to consider the funding of additional resources in the Department of Corrections to offer probation supervision of appropriate defendants in the District Court.

**Comment:** In 1996, the Legislature removed the court's ability to place a defendant convicted of a Class B Misdemeanor or violation on probation. A Class B Misdemeanor carries with it a maximum penalty of a \$1,200 fine. Many law enforcement agencies in the State exercise their charging discretion by charging domestic violence-related assaults as Class B Misdemeanors. In those cases, the courts are without any power to do anything other than order a fine. There is no opportunity for supervision of a violent or potentially violent individual charged with a Class B Misdemeanor.

In Class A Misdemeanor cases, on the other hand, although probation services are technically available under the statute, the District Court has been advised that limited resources prevent the Department of Corrections from being fully available at the local level. The resources of the department are focused primarily on the more serious crimes charged in the Superior Court.

(14) The Legislature should revisit this statute to clarify its intent. If it intended to remove all violent cases from the class of cases that can be charged, changed, or recorded as Class A Misdemeanors, it needs to state so clearly.

**Comment:** RSA 625:9, as amended by the Legislature in 1992, created two classes of Misdemeanors - A and B. Class A Misdemeanors subject a defendant to a maximum penalty of one year in the House of Corrections and a \$2,000 fine, along with the potential of two years' probation. Class B Misdemeanors, on the other hand, subject a defendant to a maximum penalty of a \$1,200 fine. The statute originally allowed that any offense that was charged as an A Misdemeanor could be changed to a B Misdemeanor by the State under certain circumstances.

In 1996, the Legislature amended the statute again to make clear that the State could not change from A to B an offense that had as an element an act of violence. However, the statute did not preclude the bringing of such an offense as a Class B Misdemeanor in the first instance, nor did it prohibit the reduction of such a charge to a violation-level offense.

Additionally, the statute now provides that where a person is charged with an A Misdemeanor but the court sentences the defendant to a sentence no higher than that available through a Class B (\$1,200 fine or less), the conviction will be recorded as a Class B Misdemeanor. It is common practice that domestic violence cases will either be charged as Class B Misdemeanors or, by plea agreement, end in sentences causing the offense to be recorded as a Class B Misdemeanor under this provision of the law.

The consequence of this gap in the legislation is that in many instances, defendants who would otherwise be eligible for the federal lifetime ban on weapons are not; and, in some cases, confusion exists as to which provision of the statute applies. For example, as indicated above, the most recent amendment makes clear that the State may not change a violent Class A Misdemeanor to Class B. However, it has been held by some courts that the same result can be accomplished by

plea bargaining a guilty plea in exchange for a fine-only sentence.

Even more problematic is that when the prohibition against the State reducing violent Class A Misdemeanors to Class B Misdemeanors was enacted by the Legislature, no similar amendment was made to RSA 625:9, VI. Therefore, as mentioned earlier, the State still has the authority to reduce a violent offense to violation-level offense, i.e., an even lower level offense than a Class B Misdemeanor.

- (15) The Legislature should consider full funding of Guardian ad Litem services in domestic violence cases to represent the interests of children.

**Comment:** RSA 173-B:6 allows that a Guardian ad Litem may be appointed to represent the interests of children in domestic violence cases. Funding for these services has, however, been extremely limited, and courts have been repeatedly advised to forego such appointments.

### **DIVISION FOR CHILDREN, YOUTH & FAMILIES (DCYF)**

- (1) Any time children are present at or during any incident of violence, they should be screened for the need for counseling. DCYF should institute clear assessment procedures regarding both screening and response to domestic violence.

**Comment:** Many victims grow up in homes where abuse was perpetrated frequently. Therefore, they may assume that violence is a normal part of family life, never seeking assistance. Dr. Robert Kinscherff, pediatrician and professor at Massachusetts General Hospital, Law and Psychiatry Services, states that 40% of 5-13 year olds who witness family violence suffer post-traumatic stress disorder (PTSD), compared with 15-20% of men in active combat duty.

- (2) DCYF should identify and assign specially trained therapists to work with the surviving children.



- (3) Careful consideration must be given to placement of children when one or both parents are killed during a domestic violence incident. There may be circumstances where it is inappropriate to place children with the parents of the perpetrator, to prevent children from identifying with, adopting and embracing the perceived propriety of the perpetrator's behavior.
- (4) In cases involving children who have had a parent die in a domestic violence-related fatality, DCYF caseworkers should prepare a family history covering a minimum of three generations (children, parents and grandparents).

**Comment:** Preparing a thorough family history is cost-effective. It will also ensure a better result for the children when making treatment and placement recommendations.

- (5) DCYF should ensure that children have an opportunity to bond with the victim's family, especially where it appears the perpetrator prevented or limited the victim from having contact with her family.
- (6) Any time child abuse or neglect is investigated, regardless of whether a petition ultimately is filed, screening for domestic violence should occur.

**Comment:** There is a very high correlation between child abuse or neglect and domestic violence of an adult partner. Intervention may provide greater safety for both the victim and children.

- (7) DCYF should establish, publish and distribute to allied organizations their policies on development and retention of family histories and case files.
- (8) The DCYF protocol should be amended to include specific provisions on intervention and assistance at the time of a homicide or other serious domestic violence case. The protocol should address the role of caseworkers, including a discussion of when they should be called, how they can be reached at any time, and whether a specially trained group of caseworkers should be made available for these cases. This protocol should be developed in collaboration between DCYF and the Attorney General's office.

- (9) Children of parents who are involved in domestic violence homicides or other serious incidents should have access to medical examinations to help ensure that there are no past or current physical injuries resulting from adult abuse.
- (10) For calls to the child abuse hotline in which the reporter self-identifies, the Division for Children, Youth and Families should screen for a relationship between the caller and the alleged perpetrator. The presence of such a relationship should be taken into consideration when assessing the validity of the allegations.

**Comment:** A batterer reporting his or her partner to the Division for Children, Youth and Families hotline may be another tool used by a domestic violence batterer to harass or control a victim, and attempt to engage the State as an unwitting participant.

#### **EMPLOYERS/EMPLOYEE ASSISTANCE PROGRAMS (EAP)**

- (1) The Governor's Commission on Domestic and Sexual Violence will work with the Corporate Citizenship Initiative to ensure that both public and private businesses receive adequate training and assistance in developing appropriate employer responses to domestic violence.
- (2) All employers in the State should become familiar with the Employee Assistance Program (EAP) Protocol of the Governor's Commission, and should ensure that their EAP/Human Resource staff are trained adequately on domestic violence.
- (3) Employers should be educated about the dynamics of domestic violence, and about signs of possible abuse, so that they may provide assistance to their employees. Such assistance may include referral to an EAP, a local crisis center for advocacy, or a court for a protection order.

**Comment:** Perpetrators of violence often use places of employment to access their victims, through use of telephones, fax machines and deliveries (such as flowers). Frequent contact may signal signs of control or possession and possibly danger, rather than friendship.

Employers and co-workers should be sensitive to such events and have a forum and procedure for raising such concerns and providing guidance and referrals to both victims and perpetrators.

- (4) Employers who have EAPs and/or Human Resource Departments should encourage employees who are in crisis to access the program for appropriate referrals and possible financial resources.
- (5) Employers should be sensitive to undue strain or emotional or mental stress upon employees indicating the need for referral to an EAP who may make other appropriate referrals.

**Comment:** When an employee appears depressed, a referral to a mental health professional should be considered. Depression may signal potential danger to another person. The most expeditious and complete referral would be to an EAP representative who would be familiar with local resources and services.

- (6) EAPs should be encouraged to establish working relationships with their local crisis centers, so that they will be better informed and able to assist their employees by making appropriate referrals.

## **FAITH COMMUNITY**

- (1) The faith community should become thoroughly familiar with the domestic violence protocol prepared by the Governor's Commission on Domestic and Sexual Violence.
- (2) The faith community should be provided with education about domestic violence so that they can better identify possible victims who could benefit from being referred to other organizations and agencies (victim service agencies and courts, as examples) for services.
- (3) Regular training about domestic violence for members of the faith community should be encouraged. For example, concerted efforts should be made to invite clergy to the annual domestic violence conferences.

- (4) The faith community should promote the implementation of the Domestic Violence Protocols adopted by the Governor's Commission on Domestic and Sexual Violence, in particular as they relate to providing domestic violence information and education at the time of pre-marriage counseling.

## **GOVERNOR'S COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE**

### **General Recommendations:**

- (1) Distribution of Protocols: The Governor's Commission on Domestic and Sexual Violence (Commission) will request organizational charts or other distribution lists from leaders of each profession covered by the protocols. Such lists will help ensure that relevant professionals are informed of expectations for their handling of cases involving domestic violence.
- (2) The Commission should invite the faith community to the annual domestic and sexual violence conferences. Additionally, the Commission should ensure that there is on-going information-sharing for clergy.
- (3) The Commission should work with the Corporate Citizenship Initiative to ensure that both public and private businesses receive adequate training and assistance in developing appropriate employer responses to domestic violence.
- (4) The Victim Services Committee of the Governor's Commission should prepare a comprehensive informational brochure for victims. The brochure should include information on court processes, safety considerations at the time of issuance of orders, the interplay between civil and criminal procedures, use of  
  
victim advocates, statutory rights (including child support), interstate enforcement of protective orders, and batterer's intervention programs. The brochure should also include information about counseling, and the availability of victim's compensation funds to assist victims.
- (5) The Commission should establish a Mental Health Committee. One of the most urgent functions for this Committee is to establish criteria for competent counseling related to domestic violence. Another important function of this Committee is to develop a resource list of mental health

professionals for use by courts, victim advocates and others. The Committee also should examine the issue of funding for mental health services for victims of domestic violence.

- (6) The Commission should develop an educational videotape on the process of obtaining a protective order. Information should be included on court procedures, safety measures, provisions of protective orders, interstate enforcement, penalties for violation of orders, and treatment programs for offenders, among many other topics.

(7) The teen dating violence program recently instituted by the Governor's Commission on Domestic and Sexual Violence should be expanded statewide to all high schools throughout New Hampshire.

**Comment:** This is an effective and much needed vehicle for educating high school aged students about domestic violence and healthy relationships, and providing them with information about local resources.

#### **Recommendations on Immigrant Issues:**

- (1) The Commission needs to oversee the development of outreach services for immigrant women.
- (2) The Commission should contact national resources to gather information for immigrant women. These materials should be distributed to law enforcement, crisis centers, county attorney's offices, courts, health care facilities (such as emergency rooms, physicians' offices and dental offices), and to law firms and the DOVE program of the New Hampshire Bar Association.
- (3) A list of translators for different languages should be developed and made available to all organizations and agencies dealing with victims and perpetrators of domestic violence, including courts, DCYF, the Attorney General's office, the Coalition, hospitals, and others. Information on how to contact a translator, especially during non-business (conventional) hours, and fees should be included.
- (4) Victim notification cards and other materials regularly distributed to victims should be made available in multiple languages. Multilingual materials should be distributed in all locations where other victim-service materials are available (e.g., law enforcement, crisis centers, work places, faith community, etc.).

- (5) Comprehensive training about immigration issues should be incorporated in all professional education programs dealing with domestic violence. This includes, at a minimum, New Hampshire Police Standards and Training Academy, Domestic Violence Emergency Project (DOVE) training, judicial education courses for judges and clerks, victim advocate trainings, and batterer intervention trainings.
- (6) Training should include the implications of National Crime Information Center registration relative to Immigration and Naturalization Service status, especially for unregistered immigrants and migrant workers, how persons called to testify in court are affected, and the impact on their family members.
- (7) The Commission should make contact with the Governor's Office regarding refugee services and then disseminate this information with other organizations and agencies who come in contact with battered women.
- (8) The Commission needs to invite all agencies that work with immigrant women to the annual domestic violence conferences, and to coordinate other training with them. The Commission should consider adding representatives from such organizations to its sub-committees to ensure that the needs of immigrant women are being considered and addressed systemically.

**Recommendations on Elderly Issues:**

- (1) The Commission needs to educate the public about domestic violence perpetrated against elderly citizens.

**Comment:** One possible method to reach the general population would be through public service announcements.

- (2) The Commission needs to provide more outreach to elderly citizens about domestic violence. Many harbor the view that domestic violence is a private matter, and/or that if the system was not helpful 50 years ago, it will not be helpful today.

**Comment:** Possible ways to reach the elderly citizen audience include notices with Medicaid payments, notices at pharmacies and physicians' offices, and an article in American Association of Retired Persons (AARP).

- (3) A member of the Department of Elderly and Adult Services should be added to the Domestic Violence Fatality Review Committee.
- (4) A member of the Department of Elderly and Adult Services should be added to the Governor's Commission on Domestic and Sexual Violence.
- (5) The Commission should examine the possibility of establishing a separate committee to address domestic violence and the elderly.
- (6) Specific training on elder abuse and exploitation should be provided to all disciplines that come in contact with the elderly. Audiences include, at a minimum, all courts, housing agencies, medical and mental health professionals, the New Hampshire State Hospital, the clergy, the law enforcement community, victim advocates and batterer intervention providers. Furthermore, all trainings on domestic violence should include a segment on elderly abuse.

**Comment:** One case reviewed highlighted certain stereotypes that may persist, such as a perception that domestic violence occurs only with younger people, or that an elderly perpetrator is not a risk.

- (7) The Elder Abuse Protocol should be distributed to all disciplines that come in contact with the elderly.
- (8) A brochure on domestic violence should be prepared for elderly citizens. This would be similar to the dating violence brochure for teenagers. It would identify common questions, perceptions and attitudes that would help a victim understand whether domestic violence is occurring. It would also educate the victim about available community resources.
- (9) When individuals who have been involuntarily civilly committed (following a criminal charge) are released from hospitalization, a system should be in place to notify victims and the law enforcement community. The Commission should examine whether state and federal law would permit such notice, and whether legislation should be introduced to facilitate this process.

**HEALTH CARE PROVIDERS (includes ERs, Pediatricians, PCPs, PAs, HMOs, NH Medical Society, Schools and Well Child Check-Providers)**

- (1) All health care providers should be familiar with the Governor's Commission Medical Protocol and the New Hampshire Health Initiative on Domestic Violence State Policy Action Plan, which recommend routine screening for domestic violence for all patients.
- (2) Health care providers should screen for and refer children who are in homes marked by violence to specialized therapists.

**Comment:** The goal is to identify as many potential providers and administrators of insurance programs as possible to educate about the need to refer children in these situations to competent counselors. The purpose of screening children is to provide needed services while not separating them from their families (parents or siblings).

### **HOME CARE ASSOCIATION OF NEW HAMPSHIRE**

\_\_\_\_\_ Local communities should ensure that home health care providers (home health care-nurses) are available to do home visits, especially during the first few months of post-birth time. Screening could be conducted for normal childhood development, as well as access for young mothers to community resources. Home health care nurses also could screen for domestic violence as a routine part of their in-home service.

### **LAW ENFORCEMENT**

\_\_\_\_\_ (1) When law enforcement officers are asked to provide assistance, whether responding for protective custody or for a domestic violence assault, they should inquire whether anyone has been victimized, and whether a protection order should be obtained.

(2) The use of school resource officers should be expanded throughout the state.

**Comment:** A School Resource Officer (SRO) is a trained police officer. Combining that with his/her visibility within the school environment acts as a mechanism which keeps the lines of communication open between students, law enforcement, school administration,



and the community. School Resource Officers are law related counselors who learn to be "active listeners", creating a visible and approachable resource for students who may have domestic violence issues in their lives. The SRO is also a link between both the student body and the school staff, and is able to assist in the identification of students at risk. As a police officer first, he/she has a working knowledge of the juvenile justice system and is able to teach law related courses, counsel both students and parents, and explain the repercussions of actions, which endanger either the student(s) or school staff. The SRO is also able to make law enforcement and social service agencies aware of potential problems before a tragedy occurs.

- (3) Law enforcement training should include a component on identifying the predominant aggressor. Law enforcement should also receive training on identifying risks which each party presents to the other in order to ensure that victims are protected.

**Comment:** Training on predominant aggressor theory and risk assessments should be integrated together so that law enforcement will understand better the dynamics of domestic violence. A person who may appear to be a primary or predominant aggressor in a particular situation may, in fact, be at greater risk of harm than the person who appears at first glance to be the victim.

**PSYCHIATRIC/MENTAL HEALTH CARE PROVIDERS (Community Mental Health Centers, Behavioral Health Network and other insurance companies, DHHS-Behavioral Health, NH Psychological Association, School Guidance Counselors, School Psychologists and private providers)**

- (1) Mental health care providers should screen for and refer victims, children and perpetrators who are in homes marked by violence to specialized therapists.

**Comment:** It is critical that mental health care providers be cognizant of their own abilities. If not sufficiently trained in working with victims and perpetrators of domestic violence and with children traumatized by violence, they should refer clients to specialized therapists who have adequate training.

- (2) Mental health care providers should refer victims and children to crisis centers for appropriate assistance.
- (3) More specific training should be provided for the mental health community on domestic violence. Patients who are seen by mental health professionals should be screened routinely for domestic violence. All providers should ensure that they are familiar with the Mental Health Protocol of the Governor's Commission.
- (4) When any individual is released from mental health treatment, whether as an in-patient or out-patient, the discharge summary should include a history of whether the patient has been a victim or perpetrator of domestic violence. The discharge summary also should include safety planning for a victim and risk assessment for an offender. The discharge summary should be reviewed with and signed by the patient and treatment provider. The discharge summary then should be forwarded to the next treatment provider, if any.

## VII. **CONCLUSION**

\_\_\_\_\_The New Hampshire Domestic Violence Fatality Review Committee may not be the solution to preventing domestic violence but is one very important resource. The work of the Committee represents one more effort to bring multiple community organizations together to prevent unnecessary fatalities and to promote safety for all New Hampshire citizens. The Committee stands for the proposition that domestic violence is a community problem which requires multi-disciplinary community intervention.